



March 19, 2001

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2001-1058

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145184.

The Department of Criminal Justice (the "department") received a request for the report generated in an Internal Affairs investigation of the requestor, and the requestor's "November check stub." As you raise no objection to release of the check stub, we assume you have released this item to the requestor. You claim that the requested report is excepted from disclosure under section 552.108(a)(1) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 (a)(1) of the Government Code excepts from public disclosure records of pending or ongoing prosecutions or criminal investigations held by law enforcement agencies. Here, we note that this investigation does not appear to be of a criminal nature. Rather it is an internal affairs investigation of an employee for alleged "Violation of Executive Directive PD-21 Rule #43 On and Off duty Conduct." Investigations into non-criminal matters are not excepted from disclosure by section 552.108 of the Government Code. *Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App.--El Paso 1992, writ denied) (predecessor statute to section 552.108 not applicable where no criminal investigation resulted from internal affairs investigation). The related criminal incident is apparently being investigated by the Dallas Police Department rather than the department. A governmental body may withhold information related to an ongoing criminal investigation on behalf of another governmental body. *See e.g.* Open Records Decision No. 586 (1991). However, here you do not indicate that the Dallas Police Department has requested that the responsive information be withheld. We conclude that you have not demonstrated the application of section 552.108 of the Government Code to the responsive information.

The submitted materials include the social security numbers of department employees. Information about an employee of the Texas Department of Criminal Justice is excepted from public disclosure if the information relates to the home address, home telephone number, or social security number of that employee or reveals whether the employee has family members. Gov't Code § 552.117(3). Therefore, the submitted social security numbers of department employees must be withheld.

The submitted materials also include a Texas license plate number. Section 552.130 of the Government Code excepts from disclosure Texas driver's license numbers, vehicle identification numbers, and Texas license plate numbers. The submitted Texas license plate number must therefore be withheld.

In summary, you must withhold the submitted Texas license plate number and the social security numbers of department employees. The remaining responsive information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

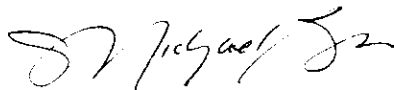
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns".

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 145184

Encl: Submitted documents

cc: Ms. Latrenia Banks
4919 Cedarbrier Drive
Dallas, Texas 75236
(w/o enclosures)